

This letter discusses to an exemption under the Gas Use Tax Law for business enterprises located in enterprise zones certified by the Department of Commerce and Economic Opportunity. See 35 ILCS 173/5-50. (This is a GIL.)

January 27, 2004

Dear Xxxxx:

This letter is in response to your letter dated October 29, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I spoke with PERSON in the Miscellaneous Taxes Division of the Illinois Department of Revenue (DOR) this morning. PERSON answered my question but asked me to fax the question to you to verify that his answer was correct.

My question regards the Illinois Gas Use Tax enterprise zone exemption. On DOR Information Bulletin, FY 2004-09, page 2 it lists 6 exemptions that apply to the Gas Use Tax. The last one listed is for natural gas used by a business located in an enterprise zone. The name of the enterprise zone in which the business is located is required on Form RG-61. From this description it seems that one would need only to complete form RG-61 Gas Use Tax Exemption Certificate by filling out the business name and address etc. and then fill in the name of the enterprise zone in which it is located.

However, in Step 3 of Form RG-61 one is to check the best description of your exemption. The first of those choices is 'by a business located in an enterprise zone certified by the Department of Commerce and Economic Opportunity. Provide the name of the enterprise zone in which you are located.' PERSON said that his understanding is that all you have to do to claim the exemption is to write in the name of the enterprise zone in which your business is located and that you do not have to be certified by the Department of Commerce and Economic Opportunity to claim exemption from the

Illinois Gas Use Tax. I would like clarification since there seems to be conflicting information as to whether such certification is necessary for the Gas Use Tax.

DEPARTMENT'S RESPONSE:

One of the exemptions from Gas Use Tax provided in Section 5-50 of the Gas Use Tax Law is for:

“(1) Gas used by business enterprises located in an enterprise zone certified by the Department of Commerce and Economic Opportunity pursuant to the Illinois Enterprise Zone Act.” 35 ILCS 173/5-50.

As the statutory language provides, the business enterprise need only be located in an enterprise zone certified by the Department of Commerce and Economic Opportunity. The business itself does not need to be certified by the Department of Commerce and Economic Opportunity. Please note that this exemption is limited to the Gas Use Tax Law and does not apply to liabilities incurred under the Gas Revenue Tax Act.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk